

MISSOURI WELL INSTALLATION BOARD MEETING

**February 21, 2011
Country Club Hotel
250 Racquet Club Drive
Lake Ozark, MO
Mediterranean B Room**

OPEN MINUTES

The regular meeting of the Well Installation Board was held on February 21, 2011, at the Country Club Hotel, Lake Ozark, MO. A quorum being present, Mr. Robert Lawrence, Chairman, called the meeting to order at 10:04 a.m.

Board Members Present: Mr. Robert Lawrence, Chairman; Mr. Fred Schoen, Vice-Chairman; Mr. Robert Broz; Ms. Annetta St. Clair; Mr. Danny Flynn and Mr. Joe Gillman.

Board Member Participating Via Conference Call: Ms. Harriet Beard

Board Members Absent: None

Legal Counsel Present: Mr. Don Willoh, Assistant Attorney General

Guests Present: Jim Cook, Missouri Water Well Association (MWWA); Gerald Buechting, MWWA; Lindell Lindsey, A & M Pump Inc.; Kaly Erwin, Petroleum Storage Tank Insurance Fund (PSTIF); Carol Eighmey, PSTIF; Brad Rayburn, Missouri Rural Water Association (MRWA); Ray and Adam Pelton, Ray Pelton Pump & Well Drilling; Norman Pelton, Pelton Pump Co., Kevin Pelton, K Pelton Well Drilling; Jim Willey, Willey's Drilling Inc.; Steve Rook, Larson Heating and Air Conditioning; Allen Willey, Willey's Well Drilling; Charles Fletcher, Nature's Rain; Dale Brower, Dale Brower Custom Digging; Greg Bratton, Running Foxes Petroleum; Steve Teague, Running Foxes Petroleum; Bill Bloomberg, Reid Pump Service; Brad Hoyt, MWWA; David Schnell, David Schnell Drilling; Laurie Trimue, Ark-MO Well Drilling;

DNR Staff Present: Mr. Jerry Prewett, Ms. Debbie Stogsdill, Ms. Beth Marsala, Mr. Chris Thiltgen and Ms. Connie Edwards

INTRODUCTION

Mr. Lawrence welcomed everyone to the meeting and introduced himself. He asked the Board to introduce themselves, followed by staff and the audience.

ELECTIONS

Mr. Lawrence opened the floor for nominations for the Chair and Vice-Chair of the Well Installation Board. Mr. Danny Flynn nominated Mr. Robert Lawrence as Chair and Mr. Fred Schoen seconded. Ms. Annetta St. Clair moved that nominations cease and to proceed with election by acclamation. Mr. Robert Broz seconded the motion. Motion carried. Mr. Danny Flynn nominated Mr. Fred Schoen as Vice-Chair and Ms. Annetta St. Clair moved to close nominations and elect by acclamation. All voted in favor and Mr. Fred Schoen was elected Vice-Chair.

MINUTES OF THE NOVEMBER 25, 2010 BOARD MEETING

Mr. Danny Flynn had a correction on the open minutes under Other Business; "Ms." Shoen should be "Mr." Shoen, in that he is a man and not a woman. A motion was inadvertently not submitted to approve the minutes. The minutes will need to be approved at the next board meeting.

ROGERSVILLE WELL CONTAMINATION WITH TCE

Ms. Beth Marsala updated the Board on the well with high levels of TCE in Rogersville. EPA has been working on a superfund site and agreed to drill a new well for one of the owners in this case. The new well was completed December 17, 2010. Mr. Danny Flynn volunteered to provide the labor and equipment to plug the contaminated well. The well was plugged on December 15, 2010. The Greene County Soil and Water Conservation awarded the owner a grant to pay for the plugging materials.

SECTION UPDATES

The Chair recognized Ms. Beth Marsala

Ms. Marsala gave an update on activities of the section. She mentioned Sheri Fry has been out and unable to attend the meeting due to a leg injury. The Special Area 2 map has been updated and is complete. Connie Edwards replaced Tracy Ray, as the board secretary. Chris Weiberg, former Investigation and Remediation Unit Chief accepted a job in Jefferson City and Chris Thiltgen has replaced him. Kyle Rollins accepted a job in the division's Oil and Gas Unit and his position is currently open. The section still has three vacant positions.

Staff have been working on amendments to four rules including the Administrative Hearing Rule, Monitoring Well Rule, second version of the Apprentice Rule and the Heat Pump Rule.

WHP staff have been working with information technology staff and now have a map view online. The smallest scale is one to 125:000. A well can be selected and it will give all the information on that well. The map viewer is available to the public.

Staff are looking further into allowing online data entry of certification and registration forms. Staff are also in the beginning stages of allowing the public to access the Well Information Management System directly from the internet. Hopefully, this will be completed by the end of the year.

Inspection forms have been finalized. Inspections can only be conducted on sites where there has been some sort of pre-notification on site location. This would include a variance request or casing point, otherwise staff do not know where a well is being constructed or plugged until 60 days after the construction takes place.

Other daily operations such as data entry, enforcement, field work and working complaints are ongoing.

FUND UPDATE

The Chair recognizes Ms. Beth Marsala

Ms. Marsala gave a brief update on the section's fund. The fund balance as of January 31, 2011, is approximately \$222,000. Projections appear to be right on track. The fund would not be at this level without the vacancies that have been held for some time.

PERMIT APPEALS

1 & 2-Ms. Marsala presented the appeal of Eric Belew and Joshua Rupp. They both work for Hewitt-Messenger (dba Drill it Well) and have previously held pump permits with the Department. They let their permits lapse, but have the required amount of experience as evidenced by records they had submitted prior to letting their permits lapse. They have requested not to serve an apprenticeship. Staff recommended they not serve that apprenticeship as long as they take the required tests and pay the fees. Mr. Broz made a motion to approve the action recommended by staff. Mr. Flynn seconded the motion. Motion carried.

3-The Chair recognized Mr. Steve Rook, Larson Heating & Air Conditioning. He applied for a non-restricted heat pump permit and received a denial letter from the department. Mr. Rook asked to be granted a non-restricted heat pump permit, not to be able to drill the heat pump wells, but just to be able to take the loop pipe from the wellhead into the house. He is willing to put up a bond to prove financial responsibility. Staff recommended that Mr. Rook serve an apprenticeship to be consistent with the rules and previous decisions of the Board. Much discussion ensued regarding the permitting requirement in the proposed rule and how it affected industry in different ways. Ms. Marsala stated the rule that applies to this issue is now open and can be changed if the Board chooses to do so. Ms. St. Clair made a motion to ask Mr. Rook and staff to discuss again and come up with a contingency plan that might work to the benefit of both. Ms. Beard seconded the motion. Mr. Broz asked that due to the three month timeframe before the next board meeting, could the Board approve this appeal on proof of five years

experience that meets the division's approval. Mr. Shoen and Mr. Flynn recommended Mr. Rook hire someone with a non-restricted permit. Ms. St. Clair then asked to withdraw her motion. Ms. Beard asked to withdraw her second. Ms. St. Clair stated the Board was sympathetic of Mr. Rook's situation but must also uphold the rules that have been set. Ms. St. Clair moved that the request be denied to support staff recommendation with the understanding that alternatives to solve his issues have been offered. Ms. Beard seconded the motion. Motion carried.

4-The Chair recognized Mr. Fletcher, of Natures Rain. He applied for a non-restricted pump permit and was denied. Mr. Fletcher currently owns a small business and does not wish to serve an apprenticeship. Mr. Schoen recommended Mr. Fletcher hire a permitted pump installer to run the pump truck. Staff recommendation was that Mr. Fletcher serve an apprenticeship. Mr. Flynn made a motion to accept the staff recommendation in regards to Mr. Fletcher. Mr. Broz seconded the motion. Motion carried.

5. Ms. Beth Marsala presented the appeal of Mr. Danny Rains. Mr. Rains applied for a non-restricted heat pump permit and was denied. He previously was grandfathered in as a heat pump contractor from 1994 until 1997, when he let the permit lapse. During that period, Mr. Rains did not submit any heat pump records that would have provided evidence that he had experience in the drilling of heat pump wells. Mr. Rains does not want to test or provide proof of financial responsibility. Staff recommended that Mr. Rains must test and provide proof of financial responsibility. Ms. St. Clair made a motion to accept staff recommendation. Mr. Flynn seconded the motion. Motion carried.

RULE UPDATES

The Chair recognized Ms. Beth Marsala.

Monitoring Well Rule - Ms. Marsala stated on February 3, a public hearing was held after the proposed Monitoring Well rules were published in the Missouri Register in January. The comment period ended on February 7, 2011. Staff received both oral and written comments and the order of rule making reflects the comments received and changes that are proposed to be made based on those comments. Staff are recommending the Board take a vote to allow the order of rule making to be published in the Missouri Register after it is presented to the Joint Committee on Administrative Rules. Ms. St. Clair moved the motion for discussion. Mr. Robert Broz seconded the motion. Ms. Carol Eighmey with Petroleum Storage Tank Insurance Fund (PSTIF) asked the Board to allow a few more days for discussion between PSTIF and DNR staff on some language in the final Order of Rulemaking before the Board votes to publish. Staff advised that if the Board would like to allow the time for discussion, DNR staff would need to schedule a conference call with the Board within two weeks. Mr. Schoen made a motion to allow the extra time for PSTIF and DNR staff to meet to resolve issues before the Board approves the Order of Rulemaking. The Board will vote on the rule by conference call. Mr. Flynn seconded the motion. Motion carried. Mr. Gillman recommended the meeting take place the first part of next week.

Apprentice Rule - Ms. Marsala stated staff are asking the Board to approve going forward with procedures needed to publish the proposed amendment to the rule in the Missouri Register. Once this is completed, staff will present an updated rule based on the comments received to the Board. Ms. St. Clair made a motion for staff to proceed as outlined. Mr. Schoen seconded the motion. Motion carried.

Heat Pump Rule - Ms. Marsala stated that nine stakeholder meetings were scheduled throughout the state in December and January. Eight meetings were held as one was cancelled due to weather. Changes have been made to the rule based on suggestions from the stakeholder meetings. The Regulatory Impact Report (RIR) has been prepared. Staff asked the Board to approve going forward with the process of continuing this rule through the interagency review and publishing the RIR in a newspaper for 60 days for comments. The RIR will also be posted on the Website. Ms. St. Clair made a motion for staff to proceed with the process on the Heat Pump Well Construction Rule. Ms. Beard seconded the motion. Mr. Schoen disagreed and stated the rule is not anywhere close to being correct and is behind in technology. The vote was taken and there was a split decision with Chair making the final vote to break the tie. The Board ultimately voted to proceed with staff recommendation. Motion carried.

Administrative Hearing Amendment – Ms. Marsala stated this rule was previously changed when the Wellhead Protection Section was under the Division of Environmental Quality (DEQ). DEQ required staff to promulgate a rule that stated all appeals must go to the Administrative Hearing Commission to be consistent with other programs within that division. Since the Wellhead Protection Section is now under the Division of Geology and Land Survey, the rule is being revised to state that appeals go before the Board, as the statute requires. Staff had a stakeholder meeting on January 25, 2011. There were no comments received at the meeting. Staff asked the Board to vote to move forward with the rule. Ms. St. Clair made a motion for staff to proceed with moving the rule forward. Mr. Broz seconded the motion. Motion carried.

ENFORCEMENT UPDATE

The Chair recognized Ms. Beth Marsala

Ms. Marsala stated WHP has held two enforcement discretion meetings, sent one penalty demand letter; two settlement agreements have been signed, and two orders of abandonment issued. One bilateral compliance agreement was signed. The bilateral compliance agreement involved a well with too many houses on it. Staff have asked homeowners to sign this agreement and record it on their deeds so that no more houses can be added to the well.

SPECIAL AREA 2 MAP

The Chair recognized Ms. Beth Marsala

Ms. Marsala stated the updated map has been sent to all the drillers in Jasper and Newton Counties and to others, like libraries, real estate offices, health department, etc. There were no new impact areas added this year. However, there were several advisory areas added. These advisory areas were added due to the fact that the department received information about wells that were plugged due to being contaminated with lead, cadmium, TCE, or TCE degradation products. The current rule does not allow the department to determine impact areas based on plugged wells. Therefore, they are determined to be advisory areas, so owners and drillers are at least aware of potential contamination when a well is drilled in these areas.

MISSOURI WATER WELL ASSOCIATION COMMENTS

The Chair recognized Mr. Buechting

Mr. Buechting stated the Association will be giving a response to the open Heat Pump Well Rule after they have met to get things lined out. The Association has redone the continuing education program and is interested in tying in the continuing education program with permitting for the betterment of groundwater. Along with a handout, Mr. Jim Cook stated the Association has made several changes on classes and hours required. The Association's updated education credit information will be sent to the Wellhead Protection Section.

OTHER BUSINESS

The Chair recognized Mr. Jerry Prewett

Mr. Prewett acknowledged the Governor has duly appointed a replacement for the public member position Ms. Harriett Beard has held for five years. Mr. Prewett commended Ms. Beard for her service to the Board and to the State of Missouri.

The Chair recognized Ms. Beth Marsala

The CDC is conducting a survey on well data collected in seven states. Missouri is currently not one of the states being surveyed. The CDC may, however, be asking for Missouri's input. Ms. Marsala will closely monitor the information gathered and presented during the survey.

On June 29, 2011, the department will be sponsoring the National Groundwater Association's McElhiney Lecturer, Tom Christopherson. He is a Program Manager in Nebraska's Department of Health and Human Services. He will be speaking on the Nebraska Grout Task Force Research. Other speakers include Jim Vandike of the department's Water Resource Center who will discuss pump testing and John Schumacher, of the United States Geological Survey, who will speak about borehole geophysics/packer testing. The DGLS will host the event and everyone is invited to attend.

PUBLIC COMMENT AND CORRESPONDENCE

None

FUTURE MEETINGS

The Board approved to hold an open session meeting on Friday, August 5, 2011, at 10:00 a.m., at the Missouri Department of Natural Resources complex in Rolla, MO. The motion was made by Ms. St. Clair and seconded by Mr. Broz. Motion carried with a unanimous voice vote.

Mr. Danny Flynn made a motion that the Well Installation Board meet in closed session at 9:30 a.m. at the next regular board meeting for the purpose of discussing matters protected from disclosure by law as provided for in Section 610.021, RSMo., including but not limited to: legal actions, pending litigation, and attorney-client privileged matters with the Board attorney. The motion was seconded by Ms. Beard. Motion carried with a unanimous voice vote.

Ms. St. Clair confirmed with the Chair that the next board meeting will be held on May 13th at the Missouri Department of Natural Resources Regional Office in Macon, MO.

ADJOURNMENT

Ms. St. Clair moved that the meeting be adjourned. Mr. Schoen seconded. Motion carried. Meeting adjourned at 12:06 p.m.